



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,478	07/29/2003	Dennis D. Belden JR.	1007001US5APC	7461
23908	7590	11/29/2004	EXAMINER	
RENNER OTTO BOISSELLE & SKLAR, LLP			FOSTER, JIMMY G	
1621 EUCLID AVENUE			ART UNIT	PAPER NUMBER
NINETEENTH FLOOR				
CLEVELAND, OH 44115			3728	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,478	<b>Applicant(s)</b> BELDEN ET AL.
	<b>Examiner</b> Jimmy G Foster	<b>Art Unit</b> 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 September 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-11, 14, 17, 18, 21-28 and 31-35 is/are rejected.  
7)  Claim(s) 12, 13, 15, 16, 19, 20, 29 and 30 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

Art Unit: 3728

1) The terminal disclaimer filed on 07 September 2004 is not accepted because the attorney signing the terminal disclaimer is not authorized to sign for Applicant. There is no record that the attorney Don W. Bulson has been given power of attorney so as to permit the attorney to sign a terminal disclaimer on behalf of Applicant. Accordingly, the non-statutory double patenting rejections below have not been overcome.

2) Claims 1-35 distinguish over the prior art of record.

3) The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4) Claims 1-9, 14, 17, 18, 21-25 and 31-35 are finally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 28-32 of U.S. Patent No. 6,672,455. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have made the storage container of the present claims upon making of the container of the patent claims since the patent claims include all of the structure set forth in the

Art Unit: 3728

present claims. Regarding the limitation calling for the lock slide to be exposed through the opening in the front wall, this is not considered to distinguish over the patent limitation calling for the lock slide to be accessible through the opening since the word "expose" is broad enough to mean *being subject to an action of influence*. Regarding, the present claims 3 and 4, it would have been obvious to have combined the subject matter of patent claim 28 with that of either patent claim 30 or 31. Regarding present claim 18, it would have been obvious to have made aligned the opening with the lock when making the lock accessible through the opening since (the examiner asserts) one of ordinary skill in the art would have expected accessibility through an opening to mean alignment with the opening in the subject matter of patent claim 28.

5) Claims 10, 11 and 26-28 are finally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims indicated above of U.S. Patent No. 6,672,455 in view of Huot et al. It would have further been obvious in view of elements 15 of Huot et al to have held the lock slide of the patent claims of Pat. No. 6,672,455 with clips for slidably holding the lock slide with respect to the container. In addition it would have further been obvious in view of elements 17, 25, 25a, 26, 26a of Huot et al to have made the lock slide of said patent claims with horizontal and vertical members and with a pair of spaced hooks, for slidably engaging a locking keeper (in the manner of 27,28 of Huot et al) for locking the container closed.

Art Unit: 3728

6) Claims 12, 13, 15, 16, 19, 20, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

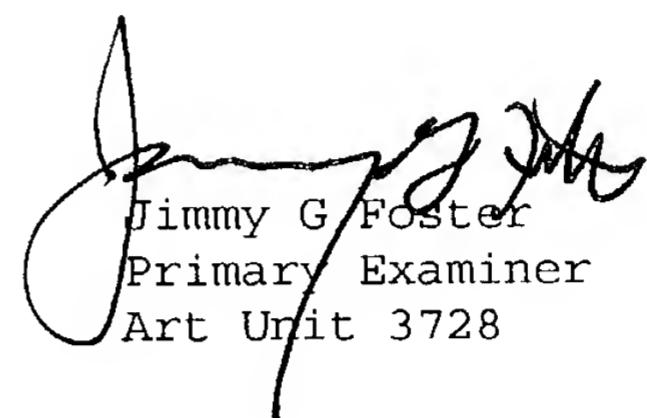
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3728

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Jimmy G. Foster  
Primary Examiner  
Art Unit 3728

JGF  
23 November 2004